

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

United States of America,

Plaintiff

v.

CRIMINAL 05-0353 (JAG)

NICOLÁS MALAVÉ-MARTÍNEZ,

Defendant

O R D E R

Nicolás Malavé-Martínez is charged with knowingly and willfully taking and/or possessing endangered species parts, namely 207 Leatherback sea turtle eggs, without a permit. He was similarly charged in relation to 135 hawksbill sea turtle eggs. The sea turtle eggs constitute endangered animal parts and possession of the eggs is a violation of both 16 U.S.C. §§ 1538(a)(1)(B) and (a)(1)(D) and (g) and 16 U.S.C. § 1540(b) (1).

At any time after the commencement of a prosecution for an offense and prior to sentencing, "the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant." 18 U.S.C. § 4241(a). The provision provides that, "[i]f, after [a] hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall

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3 commit the defendant to the custody of the Attorney General.” 18 U.S.C. §
4 4241(d). This commitment to the Attorney General entails hospitalization for up
5 to four months, or for a further period depending upon the nature of the
6 improvement of his mental state. See 18 U.S.C. § 4241(d)(1)(2)(A).
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8 In view of the above, I hereby order that the defendant be committed to the
9 custody of the Attorney General, for hospitalization in a suitable facility for a
10 reasonable amount of time, not to exceed four months, as is necessary to
11 determine whether there is a substantial probability that in the foreseeable future,
12 he will attain the capacity to permit the trial to proceed.
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14 At San Juan, Puerto Rico, this 2d day of October, 2007.
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16 S/ JUSTO ARENAS
17 Chief United States Magistrate Judge
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